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09/893,419	06/29/2001	Steve Arnold	367.40293X00	5220

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EXAMINER

ANYASO, UCHENDU O

ART UNIT	PAPER NUMBER
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2675

DATE MAILED: 01/29/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/893,419

Applicant(s)

ARNOLD, STEVE

Examiner

Uchendu O Anyaso

Art Unit

2675

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8,11,12 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8,11,12 and 16-24 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. **Claims 1-4, 6, 8, 11, 12 and 16-24** are pending in this action.

#### *Claim Objections*

2. **Claim 19** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 19 depends on claim 5, which has been canceled by applicant.

#### *Claim Rejections - 35 USC ' 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-4, 6, 8, 11, 12 and 16-24** are rejected under 35 U.S.C. 102(b) as being anticipated by *Jones et al* (GB Patent 2,332,293).

Regarding **independent claims 1 and 11**, Keen teaches an apparatus for selecting an item from a predetermined set of items by teaching a touch screen that operates by selecting a button from the display page wherein the selected button is linked to a first node of the repertory (column 4, lines 43-50).

Furthermore, Keen teaches a predetermined set of items by teaching a touch screen display page (102) comprising dial buttons (104) containing predetermined set of items such as information regarding family (104A), friends (104B), Police (104C) etc. (figure 1 at 104A-104G), organized in a menu comprising a first menu (first node) and second menu (second node) levels (*see* Abstract; *see also* figure 6A at 604, 606, 608).

Furthermore, Keen teaches a user interface comprising a plurality of actuators by teaching a touch screen interface 418 that monitors the screen 417 and detects when the screen 417 was touched (column 6, lines 8-17, figure 4 at 418, 417).

Also, Keen teaches a control means by teaching a processor 406 that operates in accordance with control logic 410 (column 5, lines 44-52, figure 4 at 406, 410) wherein actuators are provided in the form of touch screen buttons (column 6, lines 31-38) which represent different menu items such as a first menu item representing family (104A), friends (104B), Police (104C) etc. (figure 1 at 104A-104G). There is a one-to-one correspondence of menu items and actuators (buttons) such that the number of menu items does not exceed the number of buttons for a particular menu level (*see* figure 1 at 104A-104G).

Furthermore, Keen teaches a selection means by means of buttons for selecting a first item that is associated with the button (*see e.g.*, column 6, lines 53-55, figure 1, 3 at 104, 301, 302).

Also, Keen teaches how the processor 406 operates in accordance with control logic 410, determines to determine that the family button is associated with the family node in the repertory 301 wherein the touch screen interface 418 detects the pressing of the family button 104, and sends a digital code corresponding to this touch that is coincident of the family button to the

processor 406 (*see* column 6, lines 56-66). Furthermore, Keen teaches how the second menu level comprising a second number of menu items in response to selection of the first item so that at least one menu item of the second menu selection represents a subset of the first item, the second number being less than the first number and the actuator operated is not associated with a menu item of the second selection (*see* figures 1 wherein pressing family 104A yields figure 2 with names of members of the family; *see also* figures 3, 6A, 6B).

Regarding **claims 2 and 3**, in further discussion of claim 1, Keen teaches how the plurality of actuators are key means in the form of touch screen buttons (column 6, lines 31-38).

Regarding **claim 8**, in further discussion of claim 1, Keen how the second level selection comprises less items than the number of buttons shown in figure 1 (*see* figure 1 & 3 at 104, 304).

Regarding **claims 16 and 17**, in further discussion of claim 2, Keen teaches how the plurality of items selected do not exceed the number of buttons, for example, in figure 1, there are 10 buttons and the selected items do not exceed this number (*see* figure 1, 3, 6A, 6B).

Regarding **claims 21 and 22**, in further discussion of claims 1 and 11, Keen teaches how a user navigates through the hierarchical repertory using the create new telephone number button 110 (figure 1 at 110).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 4, 6, 23 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Keen* (U.S. 5,638,438) in view of *Jones et al* (GB Patent 2,332,293).

Regarding **claims 4, 6, 23 and 24**, in further discussion of claims 1 and 11, Keen teaches the use of buttons as in the input device (column 6, lines 31-38). However, Keen does not teach a joystick as an input device. On the other hand, Jones teaches how a “rocker” type switch would be used as a multi-positional input selection device (page 15, lines 14 through page 16, line 6).

Thus, it would have been obvious to a person of ordinary skill in the art to combine Keen and Jones because while Keen teaches input devices via buttons, Jones teaches how a joystick input device would be achieved by the use of a rocker type switch (page 15, lines 14 through page 16, line 6). The motivation for combining these inventions would have been to provide an alternative input means that allows for the selection of one of the displayed menu items (page 15, lines 14-16).

Regarding **claims 18-20**, in further discussion of claim 4, Keen teaches how the plurality of items selected do not exceed the number of buttons, for example, in figure 1, there are 10 buttons and the selected items do not exceed this number (*see* figure 1, 3, 6A, 6B).

*Response to Arguments*

7. Applicant's amendments and arguments filed October 02, 2003 have been fully considered but they are not persuasive.

Applicant amended **independent claims 1 and 11** to emphasize a method for controlling a user interface to select an item from a predetermined set of items organized in a menu comprising a first and second menu levels starting from the first menu level followed by the second menu, the apparatus comprising ... control means for controlling the user interface to provide a first menu selection corresponding to the first menu level and comprising a first number of menu items not exceeding the number of actuators, wherein different menu items are associated with different actuators.

In response to Applicant's amendments, *Keen* (U.S. 5,638,438) is used because it teaches all the previous features and also teaches the newly added claimed features because *Keen* teaches an apparatus for selecting an item from a predetermined set of items by teaching a touch screen that operates by selecting a button from the display page wherein the selected button is linked to a first node of the repertory (column 4, lines 43-50) comprising a first menu level and a second menu level (see figure 3 at 302, 304).

Furthermore, *Keen* teaches a control means by teaching how the processor 406 operates in accordance with control logic 410 to determine that the family button is associated with the family node in the repertory 301 wherein the touch screen interface 418 detects the pressing of the family button 104, and sends a digital code corresponding to this touch that is coincident of the family button to the processor 406 (*see* column 6, lines 56-66). Furthermore, *Keen* teaches how the second menu level comprising a second number of menu items in response to selection

of the first item so that at least one menu item of the second menu selection represents a subset of the first item, the second number being less than the first number and the actuator operated is not associated with a menu item of the second selection (*see* figures 1 wherein pressing family 104A yields figure 2 with names of members of the family; *see also* figures 3, 6A, 6B).

As such Keen teaches all the new features claimed by applicant in independent claims 1 and 11.

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uchendu O. Anyaso whose telephone number is (703) 306-5934. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Saras, can be reached at (703) 305-9720.



**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

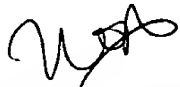
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**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

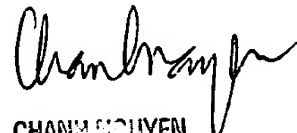
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



Uchendu O. Anyaso

01/23/2004



CHANH NGUYEN  
PRIMARY EXAMINER